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09/995,482	11/28/2001	Michael J. McKay	Leichtag001C	3333

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EXAMINER

DUFFY, DAVID W

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/995,482	<b>Applicant(s)</b> MCKAY ET AL.	
	<b>Examiner</b> David W. Duffy	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-21 and 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment files on June 24, 2005 in which the applicant amends claims 17 and 19 and responds to the claim rejections. Claims 17-21 and 23-26 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 17, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Links 386CD Players Manual, Carrera et al. (U.S. 4,273,337), and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet.
4. Peterson discloses a multi-skill question and answer board game played by players of different skill and age levels. The game can improve player's skills in various educational subject matter. Additionally, an age factor is applied to a player's point total to compensate for any age difference between competing players. Furthermore, the educational board game can be implemented in a computer-based format. Peterson discloses:

Regarding Claim 17:

- displaying a game board on a computer screen (figure 1);
- providing a game piece for each of said names of said actual player listing (column 1, line 5);

- asking a random question in turn to a given player on said actual player listing as the game piece of said given player is moved to a predetermined location (column 2, lines 18-20);
- inputting by said given player an answer to said random question (column 2, lines 18-20);
- wherein said random question corresponds to a category assigned to said predetermined location (column 2, lines 21-24).

Regarding Claim 18:

- adjusting said score based on each name of said actual player listing based upon the respective age of each of said actual players (column 2, lines 46-51).

5. Peterson seems to lack explicitly stating:

Regarding Claim 17:

- inputting names of a plurality of players to a potential players listing;
- selecting names from said potential players listing for playing or not playing a subsequent game to thereby produce an actual player listing;
- electronically storing said names and ages of said potential players listing such that said names and ages are available for all subsequent games without reentering said names and ages except for respective of said names and ages that are selectively deleted from said potential players listing;

- automatically moving a game piece on said game board a number of spaces based upon a random number generator for each of said names of said actual player listing;
- allowing the game piece of said given player to remain in said predetermined location only if the answer to said random question is correct; and
- automatically accumulating a score for each name of said actual player listing; and
- automatically and randomly selecting mystery positions on said game board such that mystery positions are not visible on said computer screen.

Regarding Claim 19:

- asking a plurality of random bonus questions when said respective player lands on said mystery position.

6. Links 386CD Players Manual teaches of a software program that executes instructions to play a game on a computer. Peterson and Links 386CD Players Manual are analogous art because each are relating to games that can be implemented in a computer-based format. Furthermore, Links 386CD Players Manual teaches of:

Regarding Claim 17:

- inputting names of a plurality of players to a potential players listing (pp. 19-20);

- selecting names from said potential players listing for playing or not playing a subsequent game to thereby produce an actual player listing (pp. 19-20);
- electronically storing said names of said potential players listing such that said names are available for all subsequent games without reentering said names except for respective of said names that are selectively deleted from said potential players listing (pp. 19-20).

7. It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the creating new players and choosing players for a round feature of Links 386CD Players Manual in the computer-based implementation of Peterson. One would be motivated to do so because players would not have to input personal information (name and age) each time a game was played and would only have to select from a list of potential players to play a game.

Furthermore, to one having ordinary skill in the art, it would have been obvious at the time of applicant's invention to input a player's age in Peterson's computer-based implementation. Doing so, a programmer could easily program the game to automatically adjust a player's score based on an age factor input into the game system.

8. Regarding claim 17, to one having ordinary skill in the art, well known programming techniques to automatically move a game piece on said game board for each of said names of said actual player listing; and automatically accumulating a score for each name of said actual player listing could be implemented in Peterson's

computer-based implementation. One would be motivated to do so because these features would automate the process of the game, rather than relying on humans to manually move game pieces or tally player scores.

9. Furthermore, regarding claim 17, Carrera et al. relates to a board game apparatus. More particularly, it relates to a board game apparatus that is intended to facilitate communication between parents and children regarding facts and attitudes in the area of human sexuality. Therefore, Carrera et al. and Peterson are analogous art. Carrera et al. teaches of:

Regarding Claim 17:

- allowing the game piece of said given player to remain in said predetermined location only if the answer to said random question is correct (Column 9, lines 53-56). Although Carrera et al. does not explicitly teach the game piece remains in the predetermined location only if the answer to the question is correct, Carrera's method functions the same way. That is, a player moves forward to the predetermined location only when the answer to the question is correct, otherwise, the player remains in the same location.

10. It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Carrera's game feature in Peterson. One would be motivated to do so because a player would be required to answer a question correctly in order to advance on the board in the game making the game more competitive and exciting.

11. Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet teaches of a software program that executes instructions to play a game on a computer. Peterson and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet are analogous art because each are relating to trivia games that can be implemented in a computer-based format.

Furthermore, Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet teaches of:

Regarding claim 17:

- automatically and randomly selecting mystery positions on said game board such that mystery positions are not visible on said computer screen (pp. 13).

Regarding Claim 19:

- asking a plurality of random bonus questions when said respective player arrives on said mystery position (pp. 13).

12. It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet's Daily Double system and questions in Peterson in view of Links 386CD Players Manual and Carrera et al. One would be motivated to do so because the first player to reach the graduation space with the highest I.Q. wins the game. Therefore, the bonus questions would enable a player to earn extra points to add to the player's I.Q. value.

13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Links 386CD Players Manual, Carrera et al. (U.S.



4,273,337), and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet and further in view of Ho et al. (U.S. 6,120,300).

14. Peterson in view of Links 386CD Players Manual, Carrera et al., and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet teaches that as discussed above regarding claims 17 and 18. Peterson in view of Links 386CD Players Manual seems to lack explicitly teaching:

Regarding claim 20:

- awarding said respective player with an attractive certificate.

15. Ho et al. teaches of a reward based computer-aided educational system that provides individual rewards for a player when they reach a milestone. Ho et al., Peterson, Links 386CD Players Manual, Carrera et al., and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet are analogous art because each are relating to games that can be implemented in a computer-based format. Furthermore, Ho et al. teaches:

Regarding claim 20:

- awarding said respective player with an attractive certificate (column 14, lines 2-40).

16. It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the award features of Ho et al. in Peterson in view of Links 386CD Players Manual, Carrera et al., and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet. One would be motivated to do so because a player could enjoy an individualized printed certificate upon winning Peterson's game further enriching a player/students learning process through rewards.

17. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Carrera et al. (U.S. 4,273,337) and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet.

18. Peterson discloses a multi-skill question and answer board game played by players of different skill and age levels. The game can improve player's skills in various educational subject matter. Additionally, an age factor is applied to a player's point total to compensate for any age difference between competing players. Furthermore, the educational board game can be implemented in a computer-based format. Peterson discloses:

Regarding claim 21:

- displaying a game board on a computer screen (figure 1);
- displaying a game piece for each player (column 1, line 5);
- asking the same random question to each player, each of said random questions having ranging difficulty, from one question to the next (column 2, lines 18-20);
- inputting an answer to said random question by each player (column 2, lines 18-20).

Peterson seems to lack explicitly disclosing:

Regarding Claim 21:

- allowing the game piece of said given player to remain in said predetermined location only if the answer to said random question is correct ;

- automatically and randomly selecting one or more mystery positions on said game board such that mystery positions are not visible on said computer screen, and
- asking at least one random bonus question when each player lands on said mystery positions.

19. Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet teaches of a trivia game with a weighted scoring system that can be implemented in software to be played on a computer. Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet, and Peterson are analogous art because each are relating to games that can be implemented in a computer-based format. Furthermore, Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet teaches:

Regarding Claim 21:

- automatically and randomly selecting one or more mystery positions on said game board such that mystery positions are not visible on said computer screen (pp. 13), and
- asking at least one random bonus question when each player arrives on said mystery positions (pp. 13).

20. It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet's Daily Double system and questions in Peterson. One would be motivated to do so because the first player to reach the graduation space with the highest I.Q. wins

the game. Therefore, the bonus questions would enable a player to earn extra points to add to the player's I.Q. value.

21. Furthermore, regarding claim 21, to one having ordinary skill in the art, well known programming techniques to automatically move a game piece on said game board for each of said names of said actual player listing; and automatically accumulating a score for each name of said actual player listing could be implemented in Peterson's computer-based implementation. One would be motivated to do so because these features would automate the process of the game, rather than relying on humans to manually move game pieces or tally player scores.

22. Furthermore, regarding claim 21, Carrera et al. relates to a board game apparatus. More particularly, it relates to a board game apparatus that is intended to facilitate communication between parents and children regarding facts and attitudes in the area of human sexuality. Therefore, Carrera et al. and Peterson are analogous art. Carrera et al. teaches of:

Regarding Claim 21:

- allowing the game piece of said given player to remain in said predetermined location only if the answer to said random question is correct (Column 9, lines 53-56).

23. Although Carrera et al. does not explicitly teach the game piece remains in the predetermined location only if the answer to the question is correct, Carrera's method functions the same way. That is, a player moves forward to the predetermined location

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only when the answer to the question is correct, otherwise, the player remains in the same location.

24. It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Carrera's game feature in Peterson. One would be motivated to do so because a player would be required to answer a question correctly in order to advance on the board in the game making the game more competitive and exciting.

25. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Carrera et al. (U.S. 4,273,337) and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet and further in view of Walker et al. (U.S. 5,921,864).

26. Peterson in view of Carrera et al. and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet seems to lack explicitly teaching:

Regarding claim 23:

- providing a score for a question based on a length of time required for inputting an answer.

27. Walker et al. teaches of an electronic word puzzle game that can be played on a computer wherein the computer scores a player's performance based on time elapsed to answer the puzzle correctly. A higher score is indicative of a faster time to solution, that is, if the predetermined time period expires, the player's final score will be reduced to zero. Walker et al. teaches:

Regarding claim 23:

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- providing a score for a question based on a length of time required for inputting an answer (column 4, lines 44-56).

28. It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's feature having a player's performance based on the time elapsed to answer question correctly in Peterson in view of Carrera et al. and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet in order to add another dimension to the game making the game even more competitive.

29. Claims 24, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Carrera et al. (U.S. 4,273,337) and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet and further in view of Links 386CD Players Manual.

30. Peterson in view of Carrera et al. and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet teach that as discussed above regarding claim 21. Peterson in view of Carrera et al. and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet seem to lack explicitly stating:

Regarding Claim 24:

- inputting names of a plurality of players to a potential players listing.

Regarding Claim 25:

- selecting names from said players listing for playing or not playing a subsequent game to thereby produce an actual player listing;
- electronically storing said names of said potential players listing such that said names are available for all subsequent games without reentering said

names except for respective of said names that are selectively deleted from said potential players listing.

31. Links 386CD Players Manual teaches of a software program that executes instructions to play a game on a computer. Peterson, Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet, and Links 386CD Players Manual are analogous art because each are relating to games that can be implemented in a computer-based format. Furthermore, Links 386CD Players Manual teaches of:

Regarding Claim 24:

- inputting names of a plurality of players to a potential players listing (pp. 19-20).

Regarding Claim 25:

- selecting names from said players listing for playing or not playing a subsequent game to thereby produce an actual player listing (pp. 19-20);
- electronically storing said names of said potential players listing such that said names are available for all subsequent games without reentering said names except for respective of said names that are selectively deleted from said potential players listing (pp. 19-20).

32. It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the creating new players and choosing players for a round feature of Links 386CD Players Manual in the computer-based implementation of Peterson in view of Carrera et al. and Jeopardy! 25<sup>th</sup> Anniversary Edition Instruction Booklet. One would be motivated to do so because players would

not have to input personal information (name and age) each time a game was played and would only have to select from a list of potential players to play a game.

Furthermore, to one having ordinary skill in the art, it would have been obvious at the time of applicant's invention to input a player's age in Peterson's computer-based implementation. Doing so, a programmer could easily program the game to automatically adjust a player's score based on an age factor input into the game system.

*Response to Arguments*

33. Applicant's amendments, filed June 24, 2005, with respect to the rejection(s) of claim(s) 19 and 21 under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Links 386CD Players Manual and Freda, III (U.S. 5,660,389) has been fully considered and is persuasive because Freda does not disclose the Applicant's mystery position on the game board. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made above.

34. Applicant's amendments, filed June 24, 2005, with respect to the rejection(s) of claim(s) 17 under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Links 386CD Players Manual, and Carrera et al. has been fully considered but they are not persuasive. Applicant contends that there is a discernable difference between the words topic and category for the purposes of selecting question cards. Examiner respectfully disagrees. Peterson teaches that the space the game piece lands on determines the topic of the question to be posed to the player (Peterson



'371: column 2, lines 18-21). Peterson also discloses that the player can choose from a set of skill levels (Peterson '371: column 2, lines 30-37). The selection of skill level does not change the topic of the question to be posed to the player however. This is not distinctly different from what is claimed in Claim 17: "wherein said random question corresponds to a category assigned to said predetermined location". The argument that the references do not disclose or teach that random questions are based only on a category that has been assigned to the location is not relevant as that is not what is claimed. Peterson clearly discloses that the random question corresponds to the category assigned to the predetermined game location as described above. Therefore the examiner believes the claims of the present invention are rendered obvious over the prior art.

### ***Conclusion***

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments

made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02.

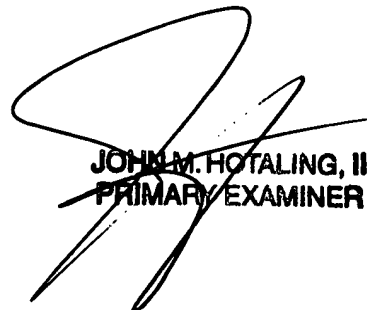
The "disclosure" includes the claims, the specification and the drawings.

Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David W. Duffy whose telephone number is (571) 272-1574. The examiner can normally be reached on M-F 0830-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

DWD

  
JOHN M. HOTALING, II  
PRIMARY EXAMINER